

**UNITED STATES DISTRICT COURT
for the
District of New Mexico**

United States of America)

v.)

Benjamin Shiosee)

YOB: 1978)

SSAN: XXX-XX-4446)

Case No.

Defendant(s)

FILED
UNITED STATES DISTRICT COURT
ALBUQUERQUE, NEW MEXICO

FEB 29 2016 Jv

MATTHEW J. DYKMAN
CLERK

16mj752

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of September 4, 2015 in the county of Cibola in the
 District of New Mexico, the defendant(s) violated:

| <i>Code Section</i> | <i>Offense Description</i> |
|-------------------------------|--|
| Title 18 U.S.C. 2242, (2) (b) | Sexual Abuse |
| Title 18 U.S.C. 1153 | Offenses committed within Indian Country |

This criminal complaint is based on these facts:

See attached affidavit

Continued on the attached sheet.


Sarah Rich
 Complainant's signature
Sarah Rich, Special Agent
 Printed name and title

Sworn to before me and signed in my presence.

Date: 2/29/16

City and state: Albuquerque, NM


Steven W. Yarbrough
 Judge's signature
 Printed name and title
V.S. Magistrate Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF NEW MEXICO

UNITED STATES)
vs.)
BENJAMIN SHIOSEE)
)
SSN: XXX-XX-4446)
)
Year of Birth: 1978)

AFFIDAVIT OF SARAH RICH

I, Sarah Rich, having been duly sworn, does hereby depose and state as follows:

1. I am a Special Agent of the Federal Bureau of Investigation (FBI), and have been a Special Agent (SA) since November 2014. I am currently assigned to the Albuquerque Field Office, with a primary duty to investigate individuals involved in violent crimes, including Indian Country sexual assault cases.

2. Throughout this investigation I have worked closely with and relied on the experience and expertise of other law enforcement agents, including SA Marcus B. McCaskill, a Special Agent of the FBI. SA McCaskill has been employed in this capacity for seventeen (17) years and is currently assigned to the Albuquerque Division of the FBI with primary responsibility in the area of violent crimes, including Indian Country and Violent Crime, including sexual assault, homicide, and crimes against children.

3. This affidavit will show there is probable cause in support of a criminal complaint against Benjamin Shiosee (Shiosee) (Year of Birth 1978, SSN xxx-xx-4446) for a violation of 18 U.S.C. § 2242 (2) (b) which prohibits engaging in a sexual act with another person if that other person is physically incapable of declining participation in or communicating unwillingness to engage in, that sexual act.
4. This offense occurred within the boundaries of the Pueblo of Laguna Indian Reservation, a violation of 18 U.S.C. § 1153. Jane Doe is the victim, a member of the Pueblo of Laguna, with tribal enrollment number xx-xx95. Shiosee is a member of the Pueblo of Laguna, with tribal enrollment number xx-xx89.
5. The statements contained in this affidavit are based upon my investigation, training, experience, and information provided by other law enforcement officers I believe to be reliable. Because this affidavit is being submitted for the limited purpose of securing a criminal complaint, I have not included each and every fact known to me concerning this investigation. I have set forth only the facts that I believe are necessary to establish probable cause to support a criminal complaint against Benjamin Shiosee, in violation of 18 U.S.C. § 2242 (2) (b) and 18 U.S.C. § 1153.

II. DETAILS OF THE INVESTIGATION

6. On September 17, 2015, at approximately 12:50 p.m., Laguna Police Department was contacted by Laguna Elderly Care Center (Laguna Rainbow Center) regarding a rape allegation. Laguna Police Department contacted the Federal Bureau of Investigation (FBI). At approximately 7:30 a.m., resident Jane Doe, year of birth 1947, told a nurse that Benjamin Shiosee, a Certified Nursing Assistant, “got me pregnant, that is why my stomach is so big.” Jane Doe is developmentally delayed and paraplegic.
7. The nurse immediately brought Jane Doe to the Director of Nurses, where Jane Doe said that “Ben came into my room and laid on top of me.” Jane Doe did not know when it occurred, but

thought it was two or three days prior. Jane Doe said it was dark when it happened.

8. The Executive Director of Laguna Rainbow Center was then brought into the room. Jane Doe said Shiosee laid on top of her, and "put his dick inside of me."
9. Jane Doe was taken for a sexual assault forensic examination in Albuquerque. During the exam, she told the nurse that "He laid on top of me, I don't know what he was doing. I have burning in my pee area. I don't know what time, it was dark either Tuesday or Wednesday and the door was closed. He laid on top of me on the bed."
10. On January 25, 2016, Shiosee was interviewed by the FBI. He denied the allegations, and agreed to take a polygraph. On February 26, 2016, Shiosee was administered a polygraph by the FBI. Shiosee failed the polygraph and subsequently confessed to raping Jane Doe. Shiosee admitted that on Friday, September 4, at approximately 7:00 p.m., while Jane Doe was lying on her bed, Shiosee inserted his penis inside of her. This happened after Shiosee had cleaned and changed Jane Doe into her nightgown. Shiosee stopped once Jane Doe indicated she was in pain.

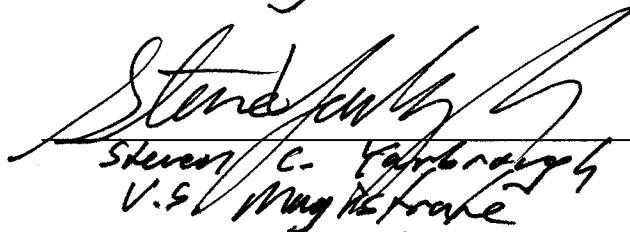
III. CONCLUSION

11. Based on foregoing information contained in this affidavit, I have probable cause to believe that on September 4th, Benjamin Shiosee inserted his penis inside Jane Doe, who is paraplegic and developmentally delayed, in violation of U.S.C. § 2242 (2) (b). This occurred within the confines of the Pueblo of Laguna Reservation, in violation of 18 U.S.C. § 1153.
12. Based on the foregoing, I respectfully request this court issue a criminal complaint and arrest warrant for Benjamin Shiosee (Year of Birth 1978, SSN xxx-xx-4446), for violations of U.S.C. § 2242 (2) (b) and 18 U.S.C. § 1153.

I swear that this information is true and to the best of my knowledge and belief.


Sarah Rich, Special Agent
Federal Bureau of Investigation

Subscribed and sworn to me this 29th day of February, 2016.


Steven C. Farnsworth
U.S. Magistrate